

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESUS CARO LOPEZ,

Defendant.

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CASE NO. 1:17-cr-00269-1

ORDER
[Resolving Doc. 293]

JAMES S. GWIN, UNITED STATES DISTRICT COURT JUDGE:

Defendant Jesus Caro Lopez seeks a sentence reduction under 18 U.S.C. § 3582(c)(1)(A).¹ Defendant argues in part that a non-retroactive sentencing law change created an extraordinary and compelling reason to reduce his sentence.²

Defendant's argument relies on a recently-vacated Sixth Circuit panel decision, *United States v. McCall*, 20 F.4th 1108 (6th Cir. 2021). In April, the Sixth Circuit vacated that decision and set the case for rehearing *en banc*.³ With the order granting rehearing *en banc*, the panel decision lost effect. The Sixth Circuit will hear oral argument *en banc* on June 8, 2022.⁴

Now, the government moves to hold Defendant Jesus Caro Lopez's motion in abeyance until after the Sixth Circuit issues a decision in the *McCall* case.⁵ The government argues that the Sixth Circuit ruling will clarify conflicting panel decisions about the effect of

¹ Doc. 289; Doc. 290.

² *Id.*

³ *United States v. McCall*, 29 F.4th 816 (Mem) (6th Cir. 2022).

⁴ Sixth Circuit Oral Argument Calendar, https://www.ca6.uscourts.gov/sites/ca6/files/documents/oral_argument_calendars/06062022_arg.pdf (last visited May 24, 2022).

⁵ Doc. 293.

Case No. 1:17-cr-00269
GWIN, J.

nonretroactive sentencing law changes on compassionate release motions.

The Court **GRANTS** the government's motion to hold Defendant's compassionate release motion in abeyance until after the Sixth Circuit issues the *en banc* decision in *United States v. McCall*.⁶

IT IS SO ORDERED.

Dated: June 7, 2022

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

⁶ *United States v. McCall*, No. 21-3400 (6th Cir.).